

Clay desk in the family of Kentucky Senators for the years to come. I urge the Senate to adopt this resolution and ask that it be included in the collection of the Standing Orders of the Senate.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 89) was agreed to, as follows.

S. RES. 89

Resolved, That during the One Hundred Sixth Congress and each Congress thereafter, the desk located within the Senate Chamber and used by Senator Henry Clay shall, at the request of the senior Senator from the State of Kentucky, be assigned to that Senator for use in carrying out his or her senatorial duties during that Senator's term of office.

ORDERS FOR THURSDAY, APRIL 29, 1999

Mr. MCCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, April 29. I further ask that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day. I further ask unanimous consent that immediately following the prayer, there be 1 hour for debate only, equally divided between Senator MCCAIN and Senator HOLLINGS, relative to the cloture motion on the McCain amendment to S. 96. I further ask that following that debate, the Senate proceed to a vote on the motion to invoke cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCAIN. Mr. President, for the information of all Senators, the Senate will convene at 9:30 a.m. and immediately begin 1 hour of debate relating to the cloture motion to the McCain amendment to the Y2K legislation. At approximately 10:30 a.m., following that debate, the Senate will proceed to a cloture vote on the pending McCain amendment to S. 96. As a reminder, under rule XXII, all second-degree amendments to the McCain amendment must be filed 1 hour prior to the vote.

ORDER FOR FILING SECOND-DEGREE AMENDMENTS

Mr. MCCAIN. Mr. President, I ask unanimous consent that Members have until 10 a.m. on Thursday in order to file second-degree amendments to the substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, following the cloture vote, the Senate may continue debate on the Y2K bill,

the lockbox issue or any other legislative or executive items cleared for action. As a further reminder, a cloture motion was filed today to the pending amendment to the Social Security lockbox legislation. That vote will take place on Friday at a time to be determined by the two leaders. For the remainder of the week, it is possible that the Senate may begin debate on the situation in Kosovo.

ORDER FOR ADJOURNMENT

Mr. MCCAIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment as a further mark of respect to the memory of deceased Senator Roman Hruska, following the remarks of Senator GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

JUDICIAL EXPANSION AND THE Y2K ACT

Mr. GRAHAM. Mr. President, over the last several years—according to our colleague from North Carolina, over the last 40 years—we have heard multiple warnings about the Y2K computer problem. We have heard how this problem will overwhelm our Nation's transportation networks, financial institutions, business sectors, and State and local communities.

I bring to the attention of the Senate this afternoon another institution that could be overwhelmed by the rush to prepare for the new millennium, and that institution is one of our direct responsibilities—the Federal courts.

Just over a month ago, the Judicial Conference of the United States—the principal policymaking body for the Federal courts, chaired by the Chief Justice of the U.S. Supreme Court—asked Congress to create nearly 70 new permanent and temporary judgeships: 11 on the appellate level and 58 in Federal district courts.

This was an unusually large request by the Judicial Conference. It was also an urgent request.

The Judicial Conference has made biennial pleas for help from Congress. Every 2 years, the Conference has recommended additional judgeships to be created in order to maintain currency with the capacity of the judicial system of the Federal Government of the United States with the caseload that system was being asked to accommodate.

I am saddened to have to state and to indicate to my colleagues and the American people that Congress has not created so much as one new Federal judgeship since December of 1990—almost 9 years ago.

Since December of 1990, appellate filings have increased by more than 30 percent. District court filings have grown by more than 20 percent. But this increase is not equally distributed across the Nation.

In my home State of Florida, we have seen a worse—a much worse—situation. The Middle and Southern Districts of Florida have seen case filings increase by over 60 percent in the last 9 years without one additional Federal judge being added to the Middle or Southern Districts.

What has been the consequence of this failure of Congress to respond to the legitimate request of the Federal judiciary for additional resources to mediate these additional case demands? This has resulted in over 1,100 criminal defendants having cases currently pending in the Middle District of Florida. On the civil side, more than 5,900 cases have yet to receive final disposition.

The reasons for this need are many. But one stands out in the context of the legislation we are now debating, the legislation to turn responsibility for Y2K litigation to the Federal courts; and that is, the increasing willingness of Congress to federalize what were formerly, and I believe properly, State civil and criminal legal issues.

In other forums we have addressed the federalization of criminal statutes, and thus I will not dwell on that subject today. But just suffice it to say this one fact: It has been now some 135 years since the end of the Civil War. Of all of the Federal criminal statutes enacted since the end of the Civil War, 30 percent of them have been enacted since 1980, or in the last 19 years. So we are in an era in which there has been a rush to create new Federal criminal statutes.

While we can and should debate the merits of this trend, what cannot be debated is the fact that this has dramatically increased the burdens on the Federal courts and their ability to dispense justice. This trend is no less prevalent on the civil side as it is on the criminal side.

In the last Congress, we considered major legal overhauls that would have preempted State tort and property laws.

In 1998, Chief Justice Rehnquist stated:

[S]hould Congress consider expanding the jurisdiction of the federal judiciary, it should do so cautiously and only after it has considered all the alternatives and the incremental impact the increase will have on both the need for additional judicial resources and the traditional role of the federal judiciary.

Unfortunately, the legislation we are considering today runs counter to that sage advice. The very nature of the Y2K problem means that multiple

plaintiffs will have similar claims against common defendants—a situation ripe for a profusion of class action lawsuits. By giving the Federal judiciary original jurisdiction over Y2K class actions, Congress will sentence Federal courts to overburdened caseloads far beyond the crisis that we currently face.

I want to make it clear that I recognize the seriousness of the Y2K problem and the need to address some of the related legal issues. Senators BENNETT and DODD deserve tremendous credit for their committee's assessment of how the U.S. Government is preparing for the Y2K problem.

I commend Senator MCCAIN for his forward-thinking focus on the legal ramifications of the millennium bug. But I have serious reservations about making Federal courts a clearinghouse for Y2K lawsuits of any kind. Proponents of this measure have argued that it is necessary to federalize the Y2K litigation in order to establish national uniformity in this area of the law.

This view runs counter to basic tenets of federalism. According to the National Governors' Association, 39 States currently have legislation enacted or pending that could resolve this issue at the State level. As such, the burden of proof falls on the proponents of this legislation to show why the Federal Government, contrary to two centuries of tradition of State responsibility for civil litigation, is in the best position to deal with this issue. Such an action of federalization amounts to a theft of what has traditionally been the State responsibility for these types of cases. As such, I will oppose cloture on this legislation.

Mr. President, thus far, I know of no plan whatsoever to address the massive new workload that legislative action such as the federalization of Y2K cases could impose on the Federal judiciary, particularly the U.S. district courts.

I urge my colleagues to consider not only the potential legal cases that will be generated by the Y2K challenge, but also to thoughtfully consider where those cases should best be heard. I be-

lieve the presumption should be that those cases should be heard where most of our civil litigation is heard, which is in State courts. I do not believe that the proponents of this change have effectively advocated for the necessity of changing that basic tradition in American jurisprudence.

We must be vigilant, as Members of Congress, to avoid legislative action that will increase the workload on our Federal courts without a commensurate increase in judicial resources. If we fail to do so, the end result will be justice delayed and justice denied.

I thank the Chair.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m., Thursday, April 29, 1999.

Thereupon, the Senate, at 6:04 p.m., adjourned until Thursday, April 29, 1999, at 9:30 a.m.